



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

H03-056, Site Development Permit and subsequent permits to allow the demolition of an existing 7,448 square foot library and construction of a new 20,000 square foot public library on the north side of Aborn Road approximately 100 feet easterly of Renfield Way (2635 Aborn Road) on a 2.5 gross acre site. (City of San Jose, Owner/Developer). Council District: 8

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **December 15, 2003**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **November 14, 2003** and ends on **December 15, 2003**.

A public hearing on the project described above is tentatively scheduled for **December 17, 2003 at 10:00 a.m.** in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the Evergreen Branch Library, 2635 Aborn Road, San José, CA 95148 San Jose, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **John W. Baty** at (408) 277-4576 or e-mail at john.baty@sanjoseca.gov.

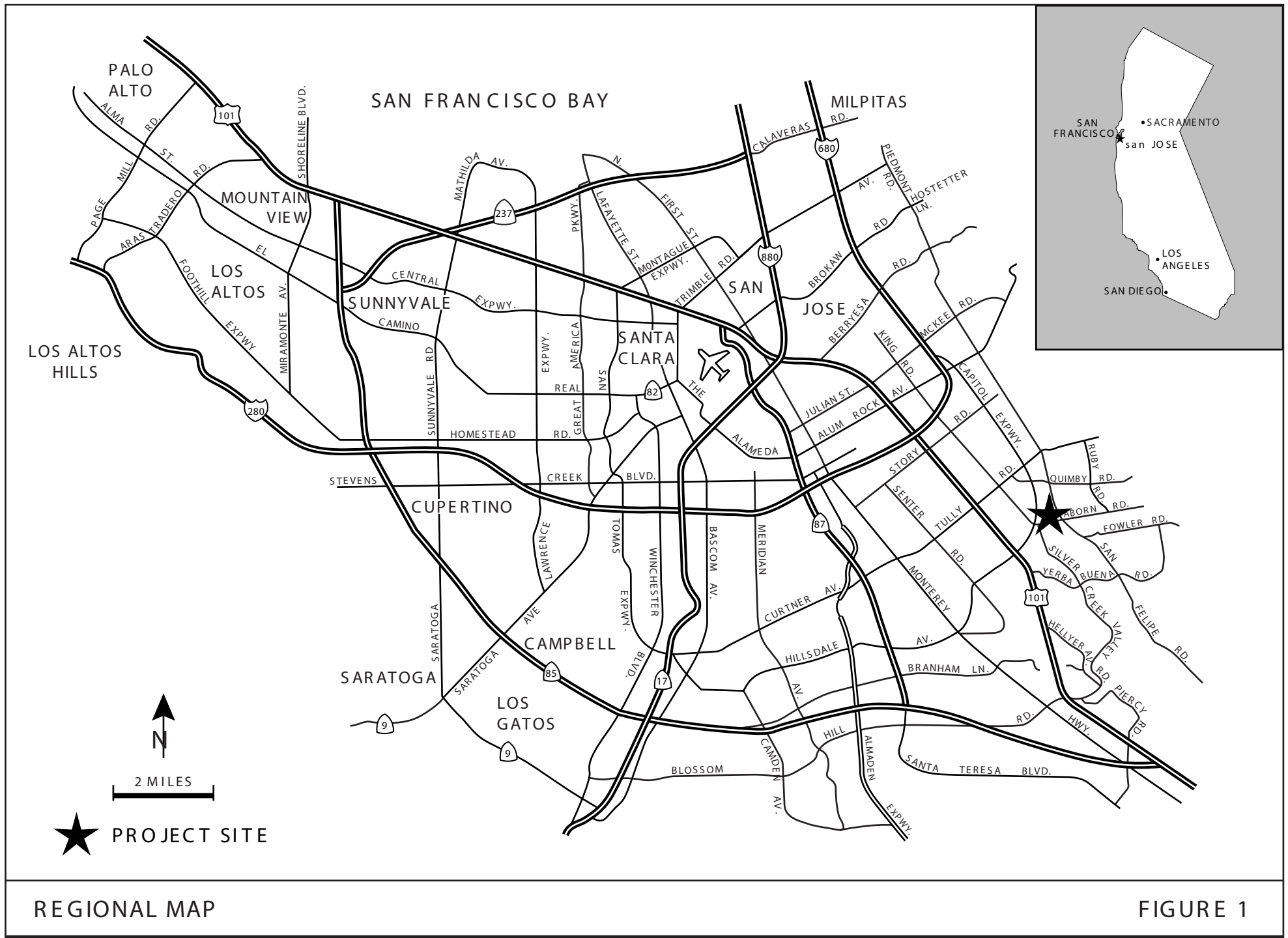
Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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Deputy

MNDPN/SBA/2/11/03

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**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Evergreen Branch Library

PROJECT FILE NUMBER: H03-056

PROJECT DESCRIPTION: Site Development Permit and subsequent permits to allow the demolition of an existing 7,448 square foot library and construction of a new 20,000 square foot public library.

PROJECT LOCATION & ASSESSORS PARCEL NO.: North side of Aborn Road, approximately 100 feet easterly of Renfield Way (2635 Aborn Road, San Jose, CA 95148); APN: 673-14-028

COUNCIL DISTRICT: 8

NAME OF APPLICANT: City of San Jose

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: 84 West Santa Clara Street, Suite 460, San Jose, CA 95113. Steven Blum, Department of Public Works, Branch Library Development Team, (408) 277-4777.

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

1. **Air Quality.** The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices will be implemented during all phases of construction on the project site:

- A. Use dust-proof chutes for loading construction debris onto trucks.
 - B. Water to control dust generation during demolition of structures and break-up of pavement.
 - C. Cover all trucks hauling demolition debris from the site.
 - D. Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - E. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - F. Sweep daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction site.
 - G. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
 - H. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - I. Install gravelbags or other erosion control measures to prevent silt runoff to public roadways.
 - J. Replant vegetation in disturbed areas as quickly as possible.
2. **Biological Resources (Tree Removal).** Ordinance size trees, 56-inch in circumference or 18-inch in diameter, to be removed as part of the project will be replaced with 24-inch box native species at a ratio of four to one (4 replacement:1 removed). Non ordinance-sized trees 12-inch in diameter or greater will be replaced at a ratio of two to one with 24-inch box native species and trees less than 12-inch in diameter will be replaced at a ratio of one to one with 15 gallon native species.
3. **Biological Resources (Tree Protection).**
- A. Pre-Construction Treatments
 - i. The construction superintendent shall meet with the Consulting Arborist before beginning work to discuss work procedures and tree protection.
 - ii. Fence all trees to be retained to completely enclose the TREE PROTECTION ZONE prior to demolition, grubbing or grading. Fences shall be 6 ft. chain link or equivalent as approved by consulting arborist. Fences are to remain until all grading and construction is completed.
 - iii. Prune trees to be preserved to clean the crown and to provide clearance. All pruning shall be completed by a Certified Arborist or Tree Worker and adhere to the Best Management Practices for Pruning of the International Society of Arboriculture.
 - B. During Construction

- i. No grading, construction, demolition or other work shall occur within the TREE PROTECTION ZONE. Any modifications must be approved and monitored by the Consulting Arborist.
 - ii. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the Consulting Arborist.
 - iii. Supplemental irrigation shall be applied as determined by the Consulting Arborist.
 - iv. If injury should occur to any tree during construction, it shall be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.
 - v. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the TREE PROTECTION ZONE.
 - vi. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.
 - vii. As trees withdraw water from the soil, expansive soils may shrink within the root area. Therefore, foundations, footings and pavements on expansive soils near trees shall be designed to withstand differential displacement.
4. **Biological Resources (Nesting Raptors).** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the result of the survey and any designated buffer zones to the satisfaction of the Planning Department prior to the issuance of any grading or building permit.
5. **Cultural Resources.** The project includes the following measures for development activities that involve excavation or disturbance of the existing ground surface to avoid or reduce potential impacts to cultural resources.
 - A. A qualified archaeologist shall be retained to inspect the library grounds for evidence of cultural resources after demolition of the existing building and removal of the existing parking lot.
 - B. If any archaeological materials or evidence indicating the likely presence of cultural resources are found at that time an archaeological monitor shall be retained on-site during all subsurface excavation activities. If no indication of cultural resources is

found during the initial inspection, then no additional monitoring will be necessary. In either case, standard conditions for excavation activities will be applied to the project as described below.

- i. In the event any significant cultural materials are encountered, all construction within a radius of 50 feet of the find will be halted, the Director of Planning, Building and Code Enforcement and the Department of Public Works will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.
- ii. In the event that human remains and/or cultural materials are found, all project related construction shall cease within a 50-foot radius of the field in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b. A final report shall be submitted to the Director of Planning and the Director of Public Works. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

6. **Geology and Soils.** A design-level geotechnical investigation for the proposed library building will be completed to address any potential for geologic hazards on the site. The geotechnical investigation for the building will be completed and submitted to the City Geologist prior to construction. Seismic shaking hazards will be mitigated by implementation of construction practices in accordance with Seismic Zone 4 building criteria as described in the Uniform Building Code to avoid or minimize potential damage from seismic shaking on the site.

7. **Hazards and Hazardous Materials.** Conformance with the following regulatory programs will reduce health risks associated with asbestos, lead-based paint, fluorescent lights and transformer oil to a less than significant impact:
- A. Asbestos surveys will be conducted for buildings constructed prior to 1980 as required under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. In addition, NESHAP guidelines require that all potentially friable asbestos containing material be removed prior to building demolition or renovation that may disturb the materials.
 - B. As appropriate, a lead survey of painted surfaces and soil around buildings built prior to 1978 will be performed prior to demolition. Requirements in the California Code of Regulations will be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.
 - C. The Department of Toxic Substances Control (DTSC) considers waste from PCB containing fluorescent lights to be "Universal Wastes". Universal Wastes are lower risk hazardous wastes that require proper disposal and handling. These materials will be disposed at an appropriate recycling facility.
 - D. Before removal of the transformer, the oil shall be tested for PCBs. Any waste will be disposed at an appropriate recycling facility.
8. **Water Quality.** The following mitigation measures, included as part of the project, will reduce water quality impacts to a less than significant level:
- A. The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José zoning ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific measures will be implemented to prevent storm water pollution and minimize potential sedimentation during construction.
 - i. restricting grading to the dry season or meet other City requirements;
 - ii. use silt fencing to retain sediment on the project site;
 - iii. providing temporary cover of disturbed surfaces to help control erosion during construction;
 - iv. provide permanent cover to stabilize the disturbed surfaces after construction has been completed.
 - B. The project will include post-construction structural controls where feasible, and Best Management Practices (BMPs) for reducing the volume of storm water runoff and the contamination in storm water runoff as permanent features of the project to the maximum extent practicable, in accordance with the City of San José's requirements, and other local, state, and federal requirement.
 - C. The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction. The

following specific measures will be implemented to prevent storm water pollution and minimize potential sedimentation during construction.

- i. restrict grading to the dry season or meet City requirements for grading during the rainy season;
- ii. using Best Management Practices to retain sediment on the project site;
- iii. burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains;
- iv. providing temporary cover of disturbed surfaces to help control erosion during construction;
- v. provide permanent cover to stabilize the disturbed surfaces after construction has been completed;
- vi. the project will comply with the City of San José's NPDES Permit requirements, the City's ordinances and policies related to storm water management, the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity, and other applicable local, state, and federal requirements.

9. **Noise (Impacts to the Project).** The project will incorporate noise control measures in the design of the library building. A complete forced air and air conditioning system will be included so that windows may be kept closed to control traffic noise intrusion. Operable windows and doors should be minimized facing Aborn Road. An acoustical consultant will participate in the design of the library building and a detailed analysis during the project design phase will be conducted so that the building's design incorporates treatments necessary to minimize noise intrusion in noise sensitive areas.
10. **Noise (Impacts from the Project).** The fence behind the residences to the west shall be repaired to seal all cracks or gaps in the fence or at the base, if this is not feasible then the fence shall be rebuilt to a solid 6-1/2 to 7-foot high wood fence, such that there are no cracks or gaps in the fence or at the base. If rooftop-mounted mechanical equipment is used, it shall be shielded from the adjacent residential development utilizing rooftop screens or perimeter parapet wall and noise control baffles, sound attenuators, or enclosures in order to reduce noise levels.
11. **Noise (Short-term Construction Impacts).** The project includes the following mitigation measures, to reduce the potential noise disturbance to adjacent land uses to a less than significant level:
 - A. Limit construction to hours of 7:00 AM to 7:00 PM on Monday through Friday, with no noise generating construction activities on Saturdays, Sundays or holidays. Construction activities with low noise levels could occur on Saturdays, Sundays or holidays with approval from the Director of Public Works.
 - B. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
 - C. Unnecessary idling of internal combustion engines should be strictly prohibited.

- D. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- E. Control noise from construction workers’ radios to the point where they are not audible at existing residences bordering the project site.
- F. Notify adjacent residents to the project site of the construction schedule.
- G. Designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule. (The City should be responsible for designating a noise disturbance coordinator and the individual project sponsor should be responsible for posting the phone number and providing construction schedule notices).

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **December 15, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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Adopted on: _____
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